

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 16081 of Jody Greene, pursuant to 11 DCMR 3107.2, for a variance to allow an accessory structure to be used as habitable space (Subsection 2500.5), and a variance from the side yard requirements (Subsection 2500.6) for the alteration and repair of an existing carriage house as habitable space in an R-4 District at premises 1324 T Street, N.W. (Square 238, Lot 83).

HEARING DATES: May 1 and June 19, 1996
DECISION DATE: July 10, 1996

ORDER

The Board provided proper and timely notice of public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 1B and to owners of property within 200 feet of the site.

The site which is the subject of this application is located within the jurisdiction of ANC 1B. ANC 1B, which is automatically a party to the application, filed a written statement of issues and concerns in support of the application.

As directed by 11 DCMR 3324.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for variances from the strict application of the requirements of 11 DCMR, Subsections 2500.5 and 2500.6. No person or entity appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

The Office of Planning (OP) recommended denial of the application. In OP's opinion, an undue hardship related to the use variance requested had not been established. Furthermore, the Zoning Regulations stipulate that two principal residential structures cannot be located on one lot of record. The existing structure could be used as a garage, a storage building, or a workshop. In addition, OP testified that the structure had no history of an authorized residential use. Such a residential use would impair the intent, purpose, and integrity of the R-4 zone district in which it is located.

Based on the applicant's testimony and facts of the case, the Board finds that the existing carriage house was constructed long before the current Zoning Regulations were enacted in 1958 and was previously partially used for residential purposes (i.e., the

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second floor) even though no record of an authorized residential use exists. The size of the structure and its siting on the lot create both a practical difficulty and a hardship for the applicant in the ability to reasonably use it for those purposes permitted in the R-4 zone district. A number of other properties in the immediate vicinity have carriage houses that are currently being used as residences. Furthermore, there is no opposition of record to this application from any neighbors.

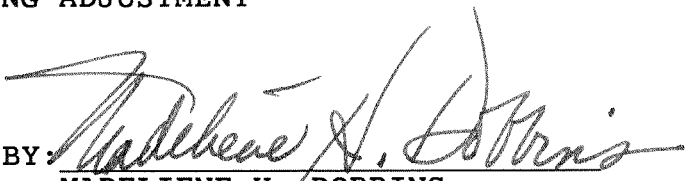
Based upon the record before the Board, the Board concludes that the applicant has met the burden of proof, pursuant to 11 DCMR 3107, that there exists an exceptional or extraordinary situation or condition related to the property which creates both an undue hardship and a practical difficulty for the owner in complying with the Zoning Regulations, and that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. It is therefore **ORDERED** that this application is **GRANTED**.

Pursuant to 11 DCMR 3301.1, the Board has determined to waive the requirement of 11 DCMR 3331.1 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case.

VOTE: 3-0 (Laura M. Richards and Sheila Cross Reid to grant; Herbert M. Franklin to grant by absentee vote; Susan Morgan Hinton and Angel F. Clarens, not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. DOBBINS
Director

FINAL DATE OF ORDER: JUL 8 1997

PURSUANT TO D.C. CODE SEC. 1-2531 (1987), SECTION 267 OF D.C. LAW 2-38, THE HUMAN RIGHTS ACT OF 1977, THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF D.C. LAW 2-38, AS AMENDED, CODIFIED AS D.C. CODE, TITLE 1, CHAPTER 25 (1987), AND THIS ORDER

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IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. THE FAILURE OR REFUSAL OF APPLICANT TO COMPLY WITH ANY PROVISIONS OF D.C. LAW 2-38, AS AMENDED, SHALL BE A PROPER BASIS FOR THE REVOCATION OF THIS ORDER.

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS.

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 16081

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on JUL 8 1997 a copy of the order entered on that date in this matter was mailed first class postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Jody Greene
7836 16th Street, N.W.
Washington, D.C. 20012

Stanley J. Mayes
1319 Wallach Place, N.W.
Washington, D.C. 20009

Mary Treadwell, Chairperson
Advisory Neighborhood Commission 1B
P.O. Box 73710
Washington, D.C. 20056

A handwritten signature in cursive script, reading "Madeliene H. Dobbins", is written over a horizontal line.

MADELIENE H. DOBBINS
Director

Date: JUL 8 1997